## Senate Study Bill 3185 - Introduced

SEN	ATE FILE
вч	(PROPOSED COMMITTEE
	ON JUDICIARY BILL BY
	CHAIRPERSON ZAUN)

## A BILL FOR

- 1 An Act providing immunity for the operation of manufacturing
- or industrial facilities under certain circumstances and
- 3 including applicability provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. Section 331.304, Code 2020, is amended by adding
- 2 the following new subsection:
- 3 NEW SUBSECTION. 13. A county shall not adopt or enforce any
- 4 ordinance or regulation in violation of chapter 686D.
- Sec. 2. Section 364.3, Code 2020, is amended by adding the
- 6 following new subsection:
- 7 NEW SUBSECTION. 13. A city shall not adopt or enforce any
- 8 ordinance or regulation in violation of chapter 686D.
- 9 Sec. 3. NEW SECTION. 686D.1 Definitions.
- 10 As used in this chapter, unless the context otherwise
- 11 requires:
- 12 1. "Commenced operations" is the date on which the
- 13 construction of a manufacturing or industrial facility was
- 14 originally completed.
- 15 2. "Manufacturing or industrial facility" includes land,
- 16 buildings, structures, pipes, stacks, ponds, impoundments,
- 17 appurtenances, and machinery or equipment which is used for
- 18 manufacturing, processing, distribution, warehousing, or
- 19 technology intensive operations.
- 20 Sec. 4. NEW SECTION. 686D.2 Limitation of liability.
- 21 1. A person shall not be liable for the operation of
- 22 a manufacturing or industrial facility under a cause of
- 23 action for public or private nuisance, negligence, trespass,
- 24 or any similar legal theory, if the facility is operating
- 25 pursuant to the issuance of all required licenses, permits,
- 26 certifications, or authorizations under applicable federal or
- 27 state environmental law.
- 28 2. A person shall not be liable for the operation of a
- 29 manufacturing or industrial facility under a cause of action
- 30 for public or private nuisance or trespass if the facility
- 31 commenced operations before the person alleged to have suffered
- 32 an injury began to reside or operate near the facility.
- 33 3. a. If the manufacturing or industrial facility is
- 34 subject to municipal, state, or federal environmental laws
- 35 or regulations, the facility may expand its operations or

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- 1 facilities and the date on which the expansion shall be
- 2 considered to have commenced operations is the same date as the
- 3 facility commenced operations.
- 4 b. A transfer of ownership of a manufacturing or industrial
- 5 facility shall not affect the date on which the facility
- 6 commenced operations for purpose of this section.
- 7 c. A temporary cessation of operation or reduction in
- 8 the size of the operation of the manufacturing or industrial
- 9 facility shall not waive any liability protection granted
- 10 by this section or affect the date the facility commenced
- 11 operations.
- 12 Sec. 5. NEW SECTION. 686D.3 Court costs and attorney fees.
- In an action in which a defendant's liability is limited
- 14 under section 686D.2, the prevailing defendant is entitled to
- 15 recover the reasonable expenses of litigation, including costs,
- 16 expert fees, and attorney fees.
- 17 Sec. 6. NEW SECTION. 686D.4 Local regulations.
- 18 A city, county, taxing district, or any other political
- 19 subdivision shall not adopt or enforce any ordinance or
- 20 resolution that would do any of the following:
- 21 1. Impose civil liability for an action from which this
- 22 chapter limits liability.
- 23 2. Require abatement or the closure of a manufacturing or
- 24 industrial facility.
- 25 Sec. 7. NEW SECTION. 686D.5 Eminent domain and
- 26 environmental law.
- 27 This chapter shall not be construed to modify any provision
- 28 of eminent domain or environmental law that is not inconsistent
- 29 with this chapter.
- 30 Sec. 8. APPLICABILITY. This Act applies to causes of
- 31 actions which accrue on or after the effective date of this
- 32 Act.
- 33 EXPLANATION
- 34 The inclusion of this explanation does not constitute agreement with
- 35 the explanation's substance by the members of the general assembly.

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- 1 This bill provides immunity for the operation of
- 2 manufacturing or industrial facilities under certain
- 3 circumstances.
- 4 The bill provides that a person shall not be liable for the
- 5 operation of a manufacturing or industrial facility under a
- 6 cause of action for public or private nuisance, negligence,
- 7 trespass, or any similar legal theory, if the facility is
- 8 operating pursuant to the issuance of all required licenses,
- 9 permits, certifications, or authorizations under applicable
- 10 federal or state environmental law.
- 11 The bill provides that a person shall not be liable for the
- 12 operation of a manufacturing or industrial facility under a
- 13 cause of action for public or private nuisance or trespass if
- 14 the facility commenced operations before the person alleged
- 15 to have suffered an injury began to reside or operate near
- 16 the facility. The bill defines "commenced operations" as
- 17 the date on which the construction of a manufacturing or
- 18 industrial facility was originally completed. An expansion
- 19 of a manufacturing or industrial facility shall be considered
- 20 to have commenced operations on the same date as the facility
- 21 if the facility is subject to municipal, state, or federal
- 22 environmental laws or regulations. The bill provides that
- 23 a transfer of ownership of a manufacturing or industrial
- 24 facility, a temporary cessation of operation, or reduction in
- 25 the size of the operation of the facility does not affect the
- 26 date on which the facility commenced operations for purposes of
- 27 the liability protections of the bill.
- 28 The bill provides that in an action in which a defendant's
- 29 liability is limited under the bill, the prevailing defendant
- 30 is entitled to recover the reasonable expenses of litigation,
- 31 including costs, expert fees, and attorney fees.
- 32 The bill provides that a city, county, taxing district, or
- 33 any other political subdivision shall not adopt or enforce
- 34 any ordinance or resolution that would impose civil liability
- 35 for an action from which the bill limits liability or that

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- 1 would require abatement or the closure of a manufacturing or
- 2 industrial facility.
- 3 The bill shall not be construed to modify any provision of
- 4 eminent domain or environmental law that is not inconsistent
- 5 with the bill.
- 6 The bill applies to actions which accrue on or after the
- 7 effective date of the bill.